IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6731 OF 2007

Sharad Ramchandra Javekar ..Petitioner
V/s.
Glass and Ceramic Decorators (Unit of The Mahalaxmi Glass Works Pvt. Ltd.) & ors ..Respondents

Mr.K.P.Anilkumar, advocate, for petitioner
Mr.R.S.Pai i/b. M/s.Haresh Mehta & Co. for respondent No.1
Mr.S.S.Pathak, advocate, for respondent No.2

CORAM : SMT.NISHITA MHATRE, J.

DATE : 18TH SEPTEMBER, 2007

P.C.

1. The petition challenges the order of the Industrial Tribunal in Reference (IT) No.63 of 2006. By an order dated 14th August, 2007 the Industrial Tribunal has allowed the application filed by the Mazdoor Congress respondent No.2 herein to be impleaded as a party to the proceedings before the Tribunal. The proceedings before the Tribunal arise from a reference by the appropriate Government under Section 25 O(5) at the instance of the workmen, who claim that Mazdoor Congress does not represent them. Mazdoor Congress

was the recognized union in the establishment before it closed after obtaining permission from the Commissioner of Labour. The reference in respect of the closure is what is pending before the Tribunal.

2. The contention of the learned advocate for respondent No.2 is that several allegations have been made against Mazdoor Congress in the statement of claim by the petitioner and therefore, the union would have a right to defend those allegations. He submits that the allegations are to the effect that union was working hand in glove with the management for closing down the concern. He, therefore, submits that the Tribunal has rightly directed the union to be impleaded as a party.

3. In my opinion, the main grievance of the union appears to be that the allegations have been made against Mazdoor Congress in the statement of claim and it, therefore, wants to dispute those allegations. In such circumstances, there is no

need to make it party to the proceedings before the Industrial Tribunal. Section 25 O (5) of the Industrial Disputes Act, 1947 permits any workman to make an application to the appropriate Government to review it's order granting permission to close down. In such a case, the appropriate Government can make a reference to the Tribunal which would decide whether the closure should be permitted. There is no necessity for the union which today does not represent the workmen to be made party to the proceedings. However, in the interest of justice Mazdoor Congress is permitted to appear and defend the allegations made against them in the statement of claim by filing a reply within three weeks from today.

(**SMT.NISHITA MHATRE, J.**)